

Instructions for Form FTB 5806

Underpayment of Estimated Tax by Corporations

General Information

See California Revenue and Taxation Code (R&TC) Section 19011, Section 19021 through Section 19027, and Section 19142 through Section 19161 to determine the estimated tax requirement for California.

The term **corporation**, as used in form FTB 5806, Underpayment of Estimated Tax by Corporations, and in these instructions, includes banks, financial corporations, regulated investment companies, real estate investment trusts, exempt organizations with unrelated business taxable income in excess of \$1,000, exempt homeowners' associations with nonexempt function taxable income in excess of \$100, limited liability companies classified as corporations, and S corporations.

An S corporation that is a parent of a Qualified Subchapter S Subsidiary (QSub) is required to pay an \$800 annual tax for each QSub. The QSub annual tax is due and payable on the S corporation's first estimate installment due date. The QSub annual tax is subject to the estimated tax rules and penalties.

If an S corporation acquires a QSub during the taxable year, but after the due date of the first estimate installment, then the QSub annual tax is due with the next required estimate installment after the acquisition of the QSub.

Tax, for purposes of estimates, includes alternative minimum tax, taxes from Schedule D (100S), excess net passive income tax and the minimum franchise tax. This differs from federal law.

For taxable years beginning on or after January 1, 2005, the underpayment of estimated tax penalty shall not apply to the extent the underpayment of an installment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment.

To request a waiver of underpayment of estimated tax penalty:

- Complete form FTB 5806 to compute the full penalty, which would normally be due.
- Write the word "Waiver," in red, across the top of form FTB 5806.
- Attach an explanation to form FTB 5806 that provides the specific law changes that caused the underpayment, the computation and the amount of penalty to be waived.
- Attach form FTB 5806 to the face of the return.

A second form FTB 5806, clearly marked "Second form FTB 5806", may be used to show the computation of the penalty not related to the law change.

California does not conform to the change in timing of certain corporate estimated tax installment payments under the Federal Tax Increase Prevention and Reconciliation Act of 2005.

For taxable years beginning on or after January 1, 2006, California conformed to federal tax law in excluding the annual payments of the LIFO recapture tax from the computation of "estimated tax." Therefore, LIFO recapture amounts are not included in the computation of an estimated tax underpayment penalty.

Purpose

Use form FTB 5806 to determine if the corporation:

- Paid the correct estimated tax.
- Is subject to the penalty for underpayment of estimated tax, and to figure the amount of the penalty.

Estimated tax is a corporation's expected tax liability after credits.

Newly Formed or Qualified Corporations: A corporation subject to the franchise tax must always pay at least the required minimum franchise tax and any QSub annual tax if applicable, by the 15th day of the 4th month of the taxable year.

For corporations that incorporate or qualify to do business in California on or after January 1, 2000, the prepayment of the minimum franchise tax to the California Secretary of State (SOS) is no longer required. For the first taxable year the corporation will compute its tax liability by multiplying its state net income by the appropriate tax rate and will not be subject to the minimum franchise tax.

However, the corporation will be required to make estimated tax payments for its first taxable year. The estimated payments will be based on the corporation's expected tax liability after credits for its first taxable year. The corporation will become subject to minimum franchise tax beginning in its second taxable year.

Attach form FTB 5806 to the front of Form 100, California Corporation Franchise or Income Tax Return; Form 100W, California Corporation Franchise or Income Tax Return – Water's-Edge Filers; Form 100S, California S Corporation Franchise or Income Tax Return; or Form 109, California Exempt Organization Business Income Tax Return, **only** if the corporation uses Exception B or Exception C in figuring or eliminating the estimate penalty. Be sure to check the applicable penalty box on the tax return. Form 100, line 42b; Form 100W, line 41b; Form 100S, line 41b; or Form 109, line 26. Also see Specific Line Instructions, Part II, Exceptions to the Penalty.

Specific Line Instructions

Part I Figure the Underpayment

Generally, an underpayment is the difference between the amount due for each installment of estimated tax and the amount actually paid or credited on or before the due date of that installment.

Line 1 – Enter the total tax from Form 100, line 31; Form 100W, line 31; Form 100S, line 30; or Form 109, line 14. Also include any add-on taxes (except interest computed under the look-back method for completed long-term contracts and the increase in tax for the deferral of installment sale income) or credits recaptured from Form 100, Form 100W, or Form 100S, Schedule J; or Form 109, Schedule K.

Line 2 – Enter in column (a) through column (d) the estimated tax installment due dates that correspond to the 15th day of the 4th, 6th, 9th, and 12th months of the taxable year.

Line 3 – Short period filers. Use the table below to determine the required percentage. *

Newly formed or qualified corporations are not subject to the minimum franchise tax for the first taxable year.

Line 4, column (a) – Enter 25% of the amount on line 1. Do not enter an amount less than the minimum franchise tax for the taxable year and any QSub annual tax, if applicable.

Or, if the prior year's tax was the minimum franchise tax and the corporation is a regular corporation, enter the minimum franchise tax.

Exception:

The corporation can enter an amount less than the minimum franchise tax if it is a newly formed or qualified corporation, has been granted a tax exemption by the Franchise Tax Board (FTB), or is subject to income tax only under Chapter 3 of the California Corporation Tax Law (i.e., corporations that are not doing business within California but derive income from sources within California.)

Line 4, column (b) – Enter 50% of the amount on line 1 minus the amount entered in column (a).

Line 4, column (c) – Enter 75% of the amount on line 1 minus the total of the amounts entered on line 4, column (a) and column (b).

Line 4, column (d) – Enter 100% of the amount on line 1 minus the total of the amounts entered on line 4, column (a), column (b), and column (c).

Line 5a – The overpayment from a prior year return, nonresident withholding, and real estate withholding are credited as of the first estimate installment due date or the date of payment, whichever is later.

For more information, refer to federal Rev. Rul. 99-40, IRC Section 6513 (b) (1) and (2), IRS Internal Revenue Manual 20.2.4.3 (03-01-2002) and FTB Notice 2003-1.

Line 5b – Enter the overpayment from the previous installment. **However, if an underpayment existed on any prior installment, pay that underpayment first.**

***Accounting Period Less Than 12 Months (Short Period)**
Fiscal year corporations, adjust dates accordingly.

If taxable year (calendar year) begins:	Number of Installments Due	Percentage of Estimated Tax Due On or Before the 15th Day of			
		April	June	September	December
January 1 through January 16	4	25%	50%	75%	100%
January 17 through March 16	3		33 1/3%	66 2/3%	100%
March 17 through June 15	2			50%	100%
June 16 through September 15	1				100%
September 16 through December 31	None				

Line 7 – If line 7 shows an underpayment for any installment, complete Part IV, Exceptions Worksheets, and Part II, Exceptions to the Penalty, for that installment.

Part II Exceptions to the Penalty

The FTB will not assess a penalty if all of the estimated tax was paid on time and the payments satisfied the exception rules. A corporation may qualify for more than one exception. Complete Part IV, Exceptions Worksheets, to see if the corporation qualifies to use any of the exceptions.

California difference: Under California law, the exceptions are computed on a cumulative basis. This differs from federal law which requires only 25% of the annual payment for each installment.

Part III Figure the Penalty

If line 7 shows an underpayment for any installment and the corporation did not meet any of the exceptions in Part II, complete the penalty computation on line 11 through line 22.

Figure the penalty on the underpayment on line 7, from the installment due date to the return due date (excluding extension of time) or to the payment date, whichever is earlier.

Additional payments

If the corporation made additional payments for an installment, figure the penalty on the revised underpaid amount (amount on line 7 minus the amount of the last payment) from the last payment date to the return due date (excluding extension of time) or to the date of the next payment, whichever is earlier. Attach a separate computation for each additional payment.

Line 11 – Enter the date payment was made or the return due date (excluding extension of time), whichever is earlier.

Form 109 filers – Enter the date payment was made, or the 15th day of the 5th month after the close of the taxable year, whichever is earlier.

When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

Days means calendar days unless otherwise noted.

Line 12 – Enter the number of days from the installment due date (line 2) to the date shown on line 11.

Line 13 – Enter the number of days on line 12 that are before 7/01/08 or the payment date, whichever is earlier.

Line 14 – Enter the number of days on line 12 that fall within the period after 6/30/08 and before 1/01/09 or the payment due date, whichever is earlier.

Line 15 – Enter the number of days on line 12 that fall within the period after 12/31/08 and before 7/01/09 or the payment due date, whichever is earlier.

Calendar year corporations – Enter the number of days on line 12 that fall within the period after 6/30/08 and before 3/15/09 or the payment date, whichever is earlier. The total of line 13 through line 15 cannot be more than the number of days shown on line 12. Skip line 16 and line 17 and proceed to line 18.

Line 16 – For fiscal year corporations only, enter the number of days on line 12 that fall within the period after 6/30/09 and before 1/01/10 or the payment date, whichever is earlier.

Line 17 – For fiscal year corporations only, enter the number of days on line 12 that fall within the period after 12/31/09 and before 2/15/10 or the payment date, whichever is earlier. The total days

on line 13 through line 17 cannot be more than the number of days shown on line 12.

Line 18 – Divide the number of days shown on line 13 by the number of days in the taxable year. Multiply the result by eight percent and by the underpaid amount shown on line 7.

Line 19 – Divide the number of days shown on line 14 by the number of days in the taxable year. Multiply the result by seven percent and by the underpaid amount shown on line 7.

Line 20 – Divide the number of days shown on line 15 by the number of days in the taxable year. Multiply the result by seven percent and by the underpaid amount shown on line 7.

Line 21 and Line 22 – Divide the number of days shown on line 16 or line 17 by the number of days in the taxable year. Multiply the result by the percentage, which the FTB will determine at a later date. Then multiply the result by the underpaid amount shown on line 7.

Penalty Rates – Call the FTB's automated phone system to get updated penalty rates.

For the interest rate for line 21, call after March 2009. For the interest rate for line 22, call after September 2009.

How to Use the Automated Phone System

The system is available in English and Spanish to callers with touch-tone telephones.

General tax information is available 24 hours a day, seven days a week.

From within the United States
call 800.338.0505

From outside the United States
call (not toll-free) 916.845.6600

After you reach the number, select business entity information, then general tax information, follow the recorded instructions, and enter **code number 403** to get the updated penalty rate.

Part IV Exceptions Worksheets

Newly formed or qualified corporations are not subject to the minimum franchise tax for the first taxable year. However, the corporation is required to make estimated tax payments for its first taxable year. The estimated payments will be based on the corporation's expected tax liability after credits. For more information, see page 1, Newly Formed or Qualified Corporations.

Exception A – Prior Year's Tax

Regular Corporations

Generally, this exception applies if the amount paid or credited on or before the installment due date equals or exceeds the tax shown on the return for the preceding year, prorated to each installment. For banks and financial corporations, the tax shown on the return includes the amount of the bank and financial tax rate adjustment. The return for the preceding year must have covered a full 12 months.

"Large" Corporations

A large corporation is any corporation, including a predecessor corporation, that had California net income (computed without regard to the net operating loss deduction) of \$1 million or more for any taxable year during the three taxable years immediately preceding the current taxable year.

Installments 1 and 2 – This exception allows a large corporation to use prior year's tax for the 1st installment only. The difference between using the prior year's tax and the current year's tax for the 1st installment must have been added to the 2nd installment (calculated using current year's tax) to meet the exception.

Installments 3 and 4 – Because Exception A for large corporations can only be used for the 1st two installments, the corporation must use the amounts computed in Part I or Exception B or Exception C, column (c) and column (d) for the corporation's 3rd and 4th installments.

Exception B – Tax on Annualized Current Year Income

This exception applies if the estimated tax paid on or before the installment due date was equal to or more than the amount the corporation would owe if its estimated tax was computed on annualized taxable income for the months preceding an installment due date.

For each period, in column (a) through column (d), enter the number of months for the annualization method used based on the table below. For example, if a Form 100 is filed and the Standard Option was used, enter 3 in column (a), 3 in column (b), 6 in column (c), and 9 in column (d).

Annualization Periods and Options

Installment	1st	2nd	3rd	4th
Standard Option	3	3	6	9
Option 1	2	4	7	10
Option 2	3	5	8	11

Corporations can use the Standard Option or must elect to use Option 1 or Option 2. Exempt organizations use Option 1 (the Standard Option for exempt organizations) or elect to use Option 2. The election to use an expanded option must be made on or before the due date of the first required installment payment. Get the instructions for the 2008 Form 100-ES, Corporation Estimated Tax, for more information.

Line 32 – Enter on line 32, column (a) through column (d), the annualization amounts for the option used. For example, if a Form 100 is filed and the Standard Option was used, on line 32, enter 4 in column (a), 4 in column (b), 2 in column (c), and 1.33333 in column (d). (Exempt organizations use the annualization amounts for the Standard Option or Option 1.)

Annualization Amounts

Installment	1st	2nd	3rd	4th
Standard Option	4	4	2	1.33333
Option 1	6	3	1.71429	1.2
Option 2	4	2.4	1.5	1.09091

Attach form FTB 5806 to the front of Form 100, Form 100W, Form 100S, or Form 109 if Exception B is used in computing or eliminating the penalty. Be sure to check the penalty box on Form 100, line 42b; Form 100W, line 41b; Form 100S, line 41b; or Form 109, line 26.

Exception C – Tax on Annualized Seasonal Income

This exception applies if the estimated tax paid on or before the installment due date was equal to or more than the amount the corporation would owe if its estimated tax was computed on annualized seasonal taxable income for the months preceding an installment due date. Use Exception C only if the corporation's base period percentage for any six consecutive months of the taxable year equals or exceeds 70%. Get the instructions for federal Form 2220, Underpayment of Estimated Tax by Corporations, for more information on the base period percentage.

Attach form FTB 5806 to the front of Form 100, Form 100W, Form 100S, or Form 109 if Exception C is used in computing or eliminating the penalty. Be sure to check the penalty box on Form 100, line 42b; Form 100W, line 41b; Form 100S, line 41b; or Form 109, line 26.